

REMARKS

By this amendment, claims 1-10 and 15-25 are pending, in which claims 1-10 and 15-24 are currently amended, and claims 25 and 26 are newly presented. No new matter is introduced.

The Final Office Action mailed July 6, 2010 objected to claims 2-10 and 16-23 and rejected claims 1-10, 15-22, and 24 as unpatentable under 35 U.S.C. § 103(a) based on *Marianetti et al.* (US 6,539,476 B1) (*Marianetti*) in view of *Tachibana et al.* (US 6,055,595) (*Tachibana*), and claim 23 as unpatentable under 35 U.S.C. § 103(a) based on *Marianetti* in view of *Tachibana* in further view of *Cook et al.* (US Pub. 2005/0169073 A1) (*Cook*).

Claims 2-10 and 16-23 were objected to because of alleged informalities.

To expedite prosecution, claims 2-10 and 16-23 have been amended to respectively recite “The method” and “The apparatus” as requested by the Examiner. As such, the objection to claims 2-10 and 16-23 are moot. Thus, it is respectfully requested that the objection to claims 2-10 and 16-23 be withdrawn.

Claims 1-10, 15-22, and 24 were rejected under 35 U.S.C. § 103(a) as unpatentable based on *Marianetti* in view of *Tachibana*.

In the statement of the rejection the Examiner asserted that one having ordinary skill in the art would have been led to modify the method disclosed by *Marianetti* by incorporating the teaching of *Tachibana* on comparing the programs running and terminating the programs accordingly. This rejection is respectfully traversed.

There are substantial differences between the claimed method and system on the one hand and those of the applied references on the other hand that undermine the obviousness conclusion under 35 U.S.C. §103(a). Specifically, independent claim 1 recites, *inter alia*: “comparing one or more programs currently running on said device with one or more programs **stored in a directory of essential programs**; and determining to **terminate** one or more currently running programs **not contained in said directory of said essential programs**.” (Emphasis added). Independent claims 15 and 24 recite similar features. These features are neither disclosed nor suggested by any of the applied references.

The Examiner, on page 3 of the Office Action, admitted that the primary reference to Marianetti fails to disclose the above-noted distinguishing features in claim 1. In attempting to fill in the blanks, the Examiner turned to Tachibana. However, the Examiner’s reliance on Tachibana is misplaced.

As previously noted, Tachibana discloses an apparatus which can automatically select and start/terminate an application program for executing **a process corresponding to a PC card** in response to insertion/removal of the PC card (column 2, lines 3-7). As illustrated in FIGs. 12 and 13 of Tachibana, an operating system issues a message when a device environment is changed and a utility program detects issuance of a message (FIG. 12 (step B11), column 10, lines 27-30). The utility program of Tachibana requests the operating system to issue device information held in a registry, acquires the device information, and compares the information with old device information (FIG. 12 (steps B12 and B13), column 10, lines 33-39). The utility program of Tachibana regards the state as “removal” if the content of device information is reduced (FIG. 12 (“NO” is step B14), column 10, lines 59-62). In the case of “removal”, the utility program of Tachibana acquires file name of an **application program corresponding to**

the removed PC card from information of the application program held in a RAM, requests the operating system to terminate the application program, and erases information of the application program corresponding to removed PC card from the RAM (FIG. 12 (steps B21-B23), column 10, line 62 to column 11, line 3). Therefore, Tachibana's system and method only determine and terminate the application programs that are associated with the removed PC card.

Further, Tachibana does not disclose or suggest **essential programs** that are essential for an operation of said device/apparatus, as recited in independent claim 1. In fact, Tachibana makes no determination as to whether a program is essential or even required. To attempt to make up for this deficiency, the Examiner, on page 9 of the Office Action argues that (emphasis added):

Applicant argues that the programs being compared and terminated are associated with removed memory device (PC card), therefore they are not considered essential programs. However, giving broadest reasonable interpretation of essential programs, **examiner would argue that such programs are essential to the operation of the device when the device are in operation**, as such application or utility programs are essential to maintain proper operation of the device or programs relied on the contents stored in the device. However, **when the PC card is removed, or the new card is inserted, the currently running utility programs associated with old device is no longer essential and therefore being terminated and removed.**

However, Tachibana makes no reference to any program being marked as essential. Further, the Examiner's interpretation of "essential programs" is not reasonable in light of the Specification (see, e.g., paragraphs [0041]-[0043] of the published Specification). The Examiner attempts to argue that any program running would be considered essential during the time it is running and not essential whenever the program is not running. However, such programs would not be essential or required. Instead, such programs would be optional.

Further, there is no teaching or suggestion in Tachibana regarding “**comparing** one or more **programs currently running** on said device with one or more **programs stored in a directory of essential programs**,” (emphasis added) as recited in claim 1. As previously noted, Tachibana does not disclose or even suggest a directory of essential programs. Tachibana merely discloses that old and new device information is compared to determine if a PC card is inserted or removed and determines use of an application program corresponding to the inserted/removed PC card. The use of such a program cannot be considered “essential” in light of the Specification because the device of Tachibana can execute without the program.

Moreover, in contrast to terminating the application program corresponding to the removed PC card as disclosed in Tachibana, claim 1 recites, *inter alia*, “determining to **terminate** one or more currently running programs **not contained in said directory** of said essential programs.” (Emphasis added). In fact, the Examiner does not even assert that Tachibana determines to terminate one or more currently running programs “not contained in said directory” of said essential programs. The Examiner does not even address the claim feature and instead recites on page 4 of the Office Action (emphasis added): “Note the **program(s) currently running** associated with the **application or utility programs stored in the registry are essential** before the device being removed and are **no longer essential programs due to the removal of the device** and are therefore terminated.” Even according to the Examiner’s interpretation, the termination of the programs of Tachibana is not based on a whether the programs of Tachibana are “not contained in said directory of said essential programs.” Instead, the termination of the programs is based on a removal of an associated expansion card regardless of whether or not the programs are not stored in a directory of essential programs.

Based on the foregoing, it is apparent that even if the applied references are combined as proposed by the Examiner, and Applicants do not agree that the requisite basis for the asserted motivations been established, the claimed inventions would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir.1988). Applicants, therefore, submit that the imposed rejection of claims 1-22 under 35 U.S.C. §103(a) for obviousness predicated upon Marianetti in view of Tachibana is not factually or legally viable and, hence, solicit withdrawal thereof.

Claim 23 was rejected under 35 U.S.C. § 103(a) as unpatentable based on Marianetti in view of Tachibana in further view of Cook.

In the statement of the rejection the Examiner asserted that one having ordinary skill in the art would have been led to modify the system disclosed by Marianetti and Tachibana by incorporating a game console, in view of Cook. This rejection is respectfully traversed.

Specifically, claim 23 depends from independent claim 15. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of claim 15 under 35 U.S.C. §103(a) for obviousness predicated upon Marianetti in view of Tachibana. The additional reference to Cook does not cure the previously argued shortcomings in the attempted combination of Marianetti and Tachibana.

Accordingly, even if the applied references are combined as suggested by the Examiner, and again Applicants do not agree that the requisite basis for the asserted motivation has been established, the claimed invention would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, *supra*. Applicants, therefore, submit that the imposed rejection of claim 23 under 35 U.S.C. §103(a) for obviousness predicated upon Marianetti in view of Tachibana and further in view of Cook is not factually or legally viable and, hence, solicit withdrawal thereof.

New claims 25 and 26.

New claims 25 and 26 depend from claim 1. As such, claims 25 and 26 are allowable for at least the reasons put forth for the allowability of claim 1.

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

October 6, 2010
Date

/Phouphanomketh Ditthavong/
Phouphanomketh Ditthavong
Attorney/Agent for Applicant(s)
Reg. No. 44658

Milin N. Patel
Attorney/Agent for Applicant(s)
Reg. No. 62768

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9951
Fax (703) 519-9958